

adequate reclamation or abatement at the site; and

(4) The site qualifies as a priority site; and two site pursuant to section 403(a)(1) and (2) of SMCRA. Priority will be given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a community.

IV. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.14 and 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Navajo Nation plan.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t., February 27, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a

public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

V. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State or Tribal AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed State or Tribe AMLR plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribe AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Tribal submittal which is the subject of this rule is based

upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 756

Abandoned mine land reclamation program, Indian lands.

Dated: February 2, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–3314 Filed 2–9–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[CGD 94–100]

Withholding of Vessel Clearances or Permits; Identification of Satisfactory Sureties in Lieu of Clearance or Permit Denial

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is authorized, under several statutes, to request that the Customs Service refuse or revoke a vessel's clearance if the vessel's owner or operator may be subject to a penalty for violating the provisions of the authorizing statutes. These statutes also provide that the vessel may be cleared upon the filing of a bond or other surety satisfactory to the Coast Guard. However, because there are currently no uniform standards governing the form and terms of an acceptable surety, the policies applied have differed among the Coast Guard districts. The Coast Guard is requesting comments on what problems, if any, are created by these variations and what solutions, if any, are desirable. The Coast Guard may initiate rulemaking based upon the comments received.

DATES: Comments must be received on or before April 11, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–100),

U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR David Dickman, Maritime and International Law Division (G-LMI), (202) 267-0095.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this request (CFD 94-100), and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Discussion of Issues

The following statutes authorize the Coast Guard to request that the Customs Service refuse or revoke the clearance required by 46 App. U.S.C. 91 of a vessel the owner or operator of which may be subject to a civil penalty for violation of these statutes:

- (a) Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(b) (12)).
- (b) Act to Prevent Pollution from Ships (APPS) (33 U.S.C. 1908(e)).
- (c) Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1232(f)).
- (d) Tank vessel operating or inspection requirements (46 U.S.C. 3718(e)).
- (e) Inland Navigation Rules (33 U.S.C. 2072(d)).

In addition to the provisions that apply to potential liability for civil penalties, the Coast Guard has authority to request that the Customs Service withhold clearance to a vessel when the owner, operator, or person in charge may be liable for criminal fines for violations of APPS, which implements the provisions of MARPOL.

Clearance from the Customs Service is required before a U.S. or foreign flag vessel may proceed from a port or place in the United States to a foreign port or place, to another port or place in the

United States, or to a hovering vessel outside the territorial sea or to receive or deliver merchandise outside the territorial sea. Clearance is not required for a U.S. vessel proceeding from a port or place in the United States to another port or place in the United States if the vessel does not have on board bonded merchandise or foreign merchandise for which entry has not been made (46 App. U.S.C. 91(a)(2)).

All of these statutes provide that the necessary clearance can be granted upon the posting of a bond or other surety satisfactory to the Coast Guard. Historically, the Coast Guard has accepted, as satisfactory, surety bonds, letters of undertaking, and cash placed in escrow in an amount equal to the maximum penalty or fine that could be assessed if a violation of the statute is found. However, the form and terms of the bonds and letters of undertaking have varied among Coast Guard marine safety offices and districts. This has resulted occasionally in some confusion among the marine industry, shipping agents, Protection and Indemnity clubs, and other entities that normally post the required sureties.

Based on these problems, the Coast Guard seeks comments, particularly on the following issues:

- (a) Is it desirable to provide for nationwide uniformity in the format and content of bonds or other forms of surety accepted by the Coast Guard?
- (b) Is there a need for regulations on this subject and, if so, what should be covered? If regulations are not needed, what alternative methods might be employed to remove the confusion noted above?
- (c) What procedures should be incorporated in regulations or other methods for providing bonds or other forms of surety?
- (d) What types of bonds or other forms of surety should be accepted and why?
- (e) Should the Coast Guard develop standard forms for the sureties to be accepted or should only the basic necessary terms be identified, as in the regulations for Customs bonds under 19 CFR part 113?
- (f) Should an option be provided to allow consideration to be given, on an ad hoc basis, to satisfactory sureties on terms not specified in the regulations? Alternatively, should the specified sureties or terms be exclusive?
- (g) Should a letter of undertaking, as issued traditionally by P&I Clubs, continue to be accepted as a form of surety? If so, is the form used in general admiralty practice sufficient or are additional terms necessary to protect the interests of the government and vessel

owners or operators? If letters of undertaking are acceptable, which individuals or entities should be liable in the event of a default in payment of the assessed penalty or fine?

(h) Are different terms required for acceptable forms of surety depending upon whether or not the statute establishes "in rem" liability of the vessel for civil penalties?

(i) If the owner or operator of the vessel may be subject to a criminal fine, would a letter of undertaking be an appropriate form of surety in light of the fact that, in general admiralty practice, letters of undertaking are used solely for civil liability purposes?

(j) If a letter of undertaking or other surety is determined by the Coast Guard to be acceptable for the purposes described, should the Coast Guard provide a list of acceptable corporate providers, similar to the listing for surety bonds published by the Department of the Treasury in Treasury Department Circular 570? Alternatively, should minimal qualifications for corporate providers of letters of undertaking or other satisfactory sureties be published without specifically listing acceptable providers?

(k) Should individuals or partnerships be authorized to provide bonds or other forms of surety? If so, what minimum qualifications should these providers be required to meet?

The Coast Guard may initiate rulemaking based upon the comments received.

Dated: February 3, 1995.

J.E. Shkor,

Chief Counsel.

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33 CFR Part 117

[CGD11-95-002]

RIN 2115-AE47

Drawbridge Operation Regulations; Little Potato Slough, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the California Department of Transportation, the Coast Guard is considering amending the regulation for the Highway 12 Swing Bridge crossing over Little Potato Slough, mile 0.1 at Terminous, near Stockton, California. The existing regulation provides that the draw open upon demand from May 1 through October 31 from 6 a.m. to 10 p.m., and upon four hours advance notice at all other times. The proposed